

MINUTES  
MALIBU CITY COUNCIL  
REGULAR MEETING  
JANUARY 26, 2004  
COUNCIL CHAMBERS  
6:30 P.M.

**CALL TO ORDER**

Mayor Kearsley called the meeting to order at 6:30 p.m.

**ROLL CALL**

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Ken Kearsley, Mayor Pro Tem Sharon Barovsky, Councilmembers Joan House, Jeffrey Jennings and Andrew Stern.

ALSO PRESENT: Katie Lichtig, City Manager; Christi Hogin, City Attorney; Victor Peterson, Environmental & Community Development Director/Building Official; Thomas Gorham, Senior Planning Consultant; Claudio Sanchez, Acting City Engineer; and Lisa Pope, City Clerk.

**FLAG SALUTE**

Judy Decker led the Pledge of Allegiance.

**CLOSED SESSION REPORT**

**Public Comment on Closed Session Items**

None.

City Attorney Hogin report that the Council met in closed session at 5:30 p.m. at which time the Council voted unanimously to add to its closed session agenda the lawsuit entitled Daniel & Laure Stern v. City of Malibu with Sprint PCS as the real party in interest and then recessed to a closed session to discuss the following items:

**Existing litigation per Government Code Section 54956.9 (a):**

1. City of Arcadia, et al. v. Regional Water Quality Board, et al.  
Los Angeles County Superior Court Case Nos. BS080807, BS080548, SO80753, BS080758, BS080791
2. City of Malibu v. California Coastal Commission (Streisand Center Coastal

Permit)

- Los Angeles County Superior Court Case No. BC230410
3. City of Malibu v. California Coastal Commission / TLC / Liebig (Referendum)  
Los Angeles County Superior Court Case No. SS011355 (on appeal)
  4. City of Malibu v. California Coastal Commission (AB988 / LCP)  
Los Angeles County Superior Court Case No. SC074641  
Related cases (city named as a party in interest):
    - a. Rick Appel v. California Coastal Commission  
Case No. SC074658
    - b. Ralph Herzig v. California Coastal Commission  
Case No. SS011382
    - c. Primrose Company v. California Coastal Commission  
Case No. SS011386
    - d. Riverview Farm Associates v. California Coastal Commission  
Case No. SS011383
    - e. Brian Sweeney v. California Coastal Commission  
Case No. SS011387
    - f. Trancas-PCH v. California Coastal Commission  
Case No. SC074640
    - g. Tuna Ridge v. California Coastal Commission  
Case No. SC011381
    - h. Land Use Preservation Defense Fund v. California Coastal Commission  
Los Angeles County Superior Court Case No. SS011388
  5. Colony Beach Preservation Association v. California Coastal Commission  
Los Angeles County Superior Court Case No. BS083683
  6. Marine Forest Society v. California Coastal Commission Case No. 00AS00567 (Amicus)
  7. Rubens v. City of Malibu  
Los Angeles County Superior Court Case No. SC060331
  8. Sierra Club v. City of Malibu (Forge Lodge)  
Los Angeles County Superior Court Case No. BS083573
  9. Silver v. City of Malibu  
Los Angeles County Superior Court Case No. BS081960
  10. Sweeney et al v. City of Malibu  
Los Angeles County Superior Court Case No. SS011602
  11. Taxpayers for Livable Communities; Jay Liebig II v. City of Malibu  
Los Angeles County Superior Court Case No. BS0735585 (on appeal)
  12. Taxpayers for Livable Communities, Povah, et al. v. City of Malibu  
Los Angeles County Superior Court Case No. BS072794 (on appeal)
  13. Trancas Property Owners Association v. City of Malibu  
Los Angeles County Superior Court Case No. BS084112
  14. United States of America ex rel. Darian v. Accent Builders inc. et al.  
United States District Court Case No. CV00-10255-FMC(JWJx)

15. Visher v. City of Malibu  
Los Angeles County Superior Court Case No. SC078703
16. Daniel & Laure Stern v. City of Malibu (Sprint PCS)  
Los Angeles County Superior Court Case No. BS087741

City Attorney Hogin indicated that the Council discussed some, but not all items listed on the Closed Session Agenda due to limited time and took no reportable action.

## **APPROVAL OF AGENDA**

**MOTION** Councilmember Jennings moved and Mayor Pro Tem Barovsky moved to approve the agenda adjourning in memory of Frank Basso, Jack Schultz and Justin Hellman. The motion carried unanimously.

## **REPORT ON POSTING OF AGENDA**

City Clerk Pope reported that the agenda for the meeting was properly posted on January 15, 2004, with the Amended Agenda posted on January 23, 2004.

## **ITEM 1 CEREMONIAL/PRESENTATIONS**

- A. Proclamation declaring April 2004 as “One Book, One City – Malibu” Month

Mayor Kearsley presented a proclamation to Mary Lou Blackwood declaring April 2004 as One Book, One City – Malibu Month.

Mary Lou Blackwood discussed the program indicating The Great Gatsby was this year’s book. She introduced members of the committee.

## **ITEM 2A PUBLIC COMMENTS**

Laura Stern deferred her time Daniel Stern.

Daniel Stern addressed the Council regarding the installation of telecommunications devices by Sprint PCS. He discussed the temporary restraining order in the matter. He requested the Council rescind approval of Sprint’s application.

John Mazza discussed the City of Laguna’s appeal process and suggested the Council direct staff to utilize a similar notice.

Chris Hasselquist, Malibu Chamber of Commerce, distributed the 2004 Business Directory and Community Guide. He introduced Tina Firestone.

Ms. Firestone discussed upcoming Chamber of Commerce events.

Redstar resigned from the Native American Cultural Resources Advisory Committee.

## **ITEM 2B      COUNCIL COMMENTS**

Mayor Pro Tem Barovsky congratulated the One Book One City committee. She suggested referring Daniel Stern's concerns to the City Attorney. She thanked Mr. Mazza for providing a suggestion to fix a problem.

Councilmember Stern concurred with comments made by Mayor Pro Tem Barovsky. He discussed recent interviews of high school leadership students.

Councilmember House indicated she looked forward to reading The Great Gatsby. She expressed interest in the positive outcome of the concerns over Sprint's wireless facilities. She commended the Chamber of Commerce for the directory. She expressed concern over Redstar's letter of resignation indicating the Council "had deaf ears." She discussed interviews of Malibu High School student leaders and indicated they were very impressive.

Councilmember Jennings discussed the Sprint PCS hearing regarding wireless antennas. He indicated the City would try to resolve the concerns of Daniel Stern. He welcomed the One Book One City committee back. He discussed the interviews at Malibu High School and stated he was extremely impressed.

Mayor Pro Tem Barovsky responded to Redstar and indicated she was bewildered by the indication that the Council was non-responsive. She indicated sadness over Redstar's resignation.

Mayor Kearsley discussed a hurricane in Hawaii causing telephone poles to be knocked down. He announced the City's affinity credit card and explained that the proceeds would go to youth groups, 50% to the Santa Monica - Malibu Unified School District and 50% to Malibu youth programs.

## **ITEM 3      CONSENT CALENDAR**

Item No. 3.B.4. was pulled by the public.

Councilmember Jennings pulled Item No. 3.B.5.

MOTION Councilmember House moved and Mayor Pro Tem Barovsky seconded a motion to approve on the Consent Calendar with the exception of Item Nos. 3.B.4. and 3.B.5. The motion carried unanimously.

The Consent Calendar consisted of the following items:

- A. Previously Discussed Items  
None.
- B. New Items
  - 1. Waive further reading  
Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.
  - 2. Approve Warrants  
Staff recommendation: Allow and approve warrant demand numbers 23836 through 23998 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 301 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$335,797.58. ADP payroll voucher numbers 7953182-7953199 were issued in the amount of \$98,275.66.
  - 3. Malibu Road Drainage Project – Completion of Contract and Acceptance of Work  
Staff recommendation: Accept work performed by Kalban, Inc. on the Malibu Road Drainage Project (Specification No. 2006) as complete and authorize the Public Works Director to record the notice of completion and to release all surety agreements and bonds.
  - 6. Approval of Minutes  
Staff recommendation: Approve City Council meeting minutes for the January 12, 2004 Regular City Council meeting.

**ITEM 3.B.4. Creation of a Native American Cultural Education and Preservation Custodial Fund**

Staff recommendation: Adopt Resolution No. 04-06 creating a Custodial fund to retain and manage monies received or designated by the City for the purpose of supporting Native American cultural education and preservation programs.

Harold Greene thanked staff for their assistance with the Native American Cultural Resources Committee. He indicated support for the staff recommendation.

**MOTION** Councilmember House moved and Mayor Pro Tem Barovsky seconded a motion to adopt Resolution No. 04-06 creating a custodial fund to retain and manage monies received or designated by the City for the purpose of supporting Native American cultural education and preservation programs. The motion carried unanimously.

**ITEM 3.B.5.** Letter of Agreement to Fund the Malibu Creek Watershed Monitoring Program

Staff recommendation: Authorize the City Manager to execute a Letter of Agreement (LOA) with the following agencies: City of Westlake Village, City of Agoura Hills, City of Calabasas, Los Angeles County, collectively called the Watershed Management Committee (WMC) and Las Virgenes Municipal Water District (LVMWD), to co-sponsor and fund the Malibu Creek Watershed Monitoring Program as required to obtain matching funds from a State of California Proposition 13 grant.

Councilmember Jennings indicated he wanted to bring attention to the item because it showed cities working together. He requested staff provide a report.

City Manager Lichtig presented the staff report.

Councilmember Jennings stated he wanted to emphasize the program because it was part of the City's effort to increase cooperative efforts among surrounding cities. He stated it was a great opportunity to work together on a regional problem. He stated the project would provide baseline data to deal with water quality problems and strong scientific data to provide the opportunity to apply for additional grants.

Mayor Kearsley thanked Councilmember Jennings for his work on the Council of Governments.

**MOTION** Councilmember House moved and Councilmember Stern seconded a motion to authorize the City Manager to execute a Letter of Agreement (LOA) with the following agencies: City of Westlake Village, City of Agoura Hills, City of Calabasas, Los Angeles County, collectively called the Watershed Management Committee (WMC) and Las Virgenes Municipal Water District (LVMWD), to co-sponsor and fund the Malibu Creek Watershed Monitoring Program as required to obtain matching funds from a State of California Proposition 13 grant. The motion carried unanimously.

**ITEM 4            ORDINANCES AND PUBLIC HEARINGS**

- A.     Introduction and First Reading of Ordinance No. 257 an Ordinance of the City of Malibu Amending Section 8.12.010 of the Malibu Municipal Code Adopting by Reference, Title 32, Fire, of the Los Angeles County Code  
Staff recommendation: After the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 257, amending Section 8.12.010 of the Malibu Municipal Code adopting by reference, Title 32, Fire, of the Los Angeles County Code and direct staff to schedule and notice a public hearing on February 9, 2004 for second reading and adoption.

Environmental and Community Development Director/Building Official Peterson presented the staff report.

MOTION     Mayor Pro Tem Barovsky moved and Councilmember House seconded a motion to introduce on first reading Ordinance No. 257, amending Section 8.12.010 of the Malibu Municipal Code adopting by reference, Title 32, Fire, of the Los Angeles County Code and direct staff to schedule and notice a public hearing on February 9, 2004 for second reading and adoption. The motion carried unanimously.

**ITEM 5            OLD BUSINESS**

None.

**ITEM 6            NEW BUSINESS**

- A.     Resolution Establishing Membership Guidelines for the Native American Cultural Resources Advisory Committee  
Staff recommendation: 1) Adopt Resolution No. 04-07 establishing membership guidelines for the Native American Cultural Resources Advisory Committee for the City of Malibu, repealing Section 2 of Resolution No. 98-064 and repealing Resolution No. 99-68; and 2) direct staff to notice appropriate vacancies.

Parks and Recreation Director Adams presented the staff report.

Mayor Pro Tem Barovsky asked if the committee discussed the item. Parks and Recreation Director Adams indicated the committee had reviewed the draft resolution, made some changes and approved it unanimously.

In response to Councilmember House, Parks and Recreation Director Adams indicated ten of the twelve members were present at the time the resolution was discussed by the Native American Cultural Resources Advisory Committee (NACRAC).

Harold Greene, Chair of the NACRAC, indicated the committee supported the resolution presented to the Council.

Mayor Kearsley requested Mr. Greene give the Council's condolences to Mrs. Greene on her father's passing.

Norm Haynie questioned whether the Wastewater Advisory Committee (WACO) was being discussed at this time. City Manager Lichtig explained that the original resolution established NACRAC and WACO at the same time and that a separate resolution regarding WACO would be brought to Council in the future for clean up.

Redstar discussed the gaps among the committee. He expressed concern with the elimination of the Chumash office and City Archeologist. He stated he was trying to mend the clashes on the committee. He discussed the cultural resource ordinance and importance of protecting the City's resources. He explained that Chumash Day had taken precedence for the committee and resource protection was not in the forefront.

In response to Councilmember House, Redstar indicated support for the resolution as presented to the Council.

Mayor Pro Tem Barovsky thanked Redstar for his clarification and stated that she hoped he would reconsider his resignation. She stated that it sounded as if there were personality conflicts on the committee and she hoped that the committee could begin to work together.

Councilmember House asked if the committee would provide annual work plans similar to other commissions and committees. City Manager Lichtig indicated the committee would present their proposed work plan. Councilmember House discussed the importance of committees presenting work plans to the Council for approval.

Councilmember Jennings discussed the Native American Cultural Resources ordinance and requested NACRAC provide input if there were problems with the ordinance.

Mayor Kearsley stated he was familiar with the committee members and was disappointed with the dissatisfaction. He proposed some type of



mediation to resolve the conflicts. City Manager Lichtig stated the County had a mediation arbitration service. Mayor Kearsley stated Pepperdine also had a mediation service. He requested the committee agree to go to mediation and try to work out the problem. He thanked the committee for their work.

Councilmember House stated Chumash Day was a special event.

Harold Greene pointed out the proposed duties of NACRAC. He explained that Chumash Day was a function of the Parks and Recreation Department with input provided by NACRAC.

MOTION Mayor Pro Tem Barovsky moved and Councilmember House seconded a motion 1) adopt Resolution No. 04-07 establishing membership guidelines for the Native American Cultural Resources Advisory Committee for the City of Malibu, repealing Section 2 of Resolution No. 98-064 and repealing Resolution No. 99-68; and 2) direct staff to notice appropriate vacancies with the current body continuing until a new body is in place.

Councilmember House asked how NACRAC was involved in planning Chumash Day. Parks and Recreation Director Adams explained the Parks and Recreation Department involvement in Chumash Day and the volunteer committee utilized to help with the event.

B. April 2004 General Municipal Election

Staff recommendation: Authorize City Manager to enter into a Professional Services Agreement with Center for Government Studies (Robert M. Stern) to serve as a Campaign Finance Monitor and resource and authorize an FPPC workshop.

City Attorney Hogin presented the staff report.

Mayor Pro Tem Barovsky asked if Robert Stern chaired the Los Angeles Ethics Committee. City Attorney Hogin stated he was the general counsel for the Fair Political Practices Commission (FPPC) and that he had done some work with the Los Angeles Ethics Committee.

Lloyd Ahern suggested candidates, treasurers, the two newspapers and Ozzie Silna be invited to attend a seminar and receive a handout on campaign finance in an effort to avoid the problems that have occurred in the past.

City Attorney Hogin recommended the Council authorize the City Manager to enter into a Professional Services Agreement with The Center

for Government Studies and specifically Robert Stern to serve as a campaign finance monitor for the April 2004 municipal election, to provide the resources described and to provide review of the City's campaign finance law and to authorize the City Clerk to organize a workshop with FPPC staff. She indicated that the City Manager should appropriate \$10,000 from the General Fund reserve for this purpose.

Councilmember Stern indicated support for the recommendation.

Councilmember House suggested an evaluation following the election.

Mayor Pro Tem Barovsky indicated support for review of the campaign ordinance.

**MOTION** Councilmember House moved and Mayor Pro Tem Barovsky seconded a motion to authorize the City Manager to enter into a Professional Services Agreement with The Center for Government Studies (Robert M. Stern) to serve as a Campaign Finance Monitor and resource and to authorize an FPPC workshop. The motion carried unanimously.

**ITEM 7 COUNCIL ITEMS**

- A. Council Appointments to City Commissions  
Staff recommendation: Appoint new Commission member to the Public Safety Commission.

Councilmember House appointed Chris Frost to the Public Safety Commission.

**ADJOURN** At 7:50 p.m., Mayor Pro Tem Barovsky moved and Councilmember Jennings seconded a motion to adjourn in the memory of Frank Basso, Jack Schultz and Justin Hellman. The motion carried unanimously.

Approved and adopted by the City Council of  
the City of Malibu on March 22, 2004.

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KENNETH KEARSLEY, Mayor

ATTEST:

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LISA POPE, City Clerk  
(seal)